



4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2013-N-1152]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Petition to Request an Exemption From 100 Percent Identity Testing of Dietary Ingredients: Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0608. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd.; COLE-14526, Silver Spring, MD 20993-0002 PRStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Petition to Request an Exemption from 100 Percent Identity Testing of Dietary Ingredients:

Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements--21 CFR 111.75(a)(1)(ii) (OMB Control Number 0910-0608)--Reinstatement

The Dietary Supplement Health and Education Act (DSHEA) (Pub. L. 103-417) added section 402(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 342(g)), which provides, in part, that the Secretary of Health and Human Services (the Secretary) may, by regulation, prescribe good manufacturing practices for dietary supplements. Section 402(g)(1) of the FD&C Act states that a dietary supplement is adulterated if “it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations.” Section 701(a) of the FD&C Act (21 U.S.C. 371(a)) gives us the authority to issue regulations for the efficient enforcement of the FD&C Act.

Part 111 of our regulations (21 CFR part 111) establishes the minimum current good manufacturing practice (CGMP) necessary for activities related to manufacturing, packaging, labeling, or holding dietary supplements to ensure the quality of the dietary supplement. Section 111.75(a)(1) of our regulations establishes a procedure for a petition to request an exemption from 100 percent identity testing of dietary ingredients. In accordance with § 111.75(a)(1)(ii), manufacturers may request an exemption from the requirements set forth in § 111.75(a)(1)(i) when the dietary ingredient is obtained from one or more suppliers identified in the petition. The regulation clarifies that we are willing to consider, on a case-by-case basis, a manufacturer’s conclusion, supported by appropriate data and information in the petition submission, that it has developed a system that it would implement as a sound, consistent means of establishing, with

no material diminution of assurance compared to the assurance provided by 100 percent identity testing, the identity of the dietary ingredient before use.

Section 111.75(a)(1) reflects our determination that manufacturers that test or examine 100 percent of the incoming dietary ingredients for identity can be assured of the identity of the ingredient. However, we recognize that it may be possible for a manufacturer to demonstrate, through various methods and processes in use over time for its particular operation, that a system of less than 100 percent identity testing would result in no material diminution of assurance of the identity of the dietary ingredient as compared to the assurance provided by 100 percent identity testing. To provide an opportunity for a manufacturer to make such a showing and reduce the frequency of identity testing of components that are dietary ingredients from 100 percent to some lower frequency, we added to § 111.75(a)(1), an exemption from the requirement of 100 percent identity testing when a manufacturer petitions the Agency for such an exemption to 100 percent identity testing under §10.30 and the Agency grants such exemption. Such a procedure would be consistent with our stated goal, as described in the CGMP final rule, of providing flexibility in the CGMP requirements. Section 111.75(a)(1)(ii) sets forth the information a manufacturer is required to submit in such a petition. The regulation also contains a requirement to ensure that the manufacturer keeps our response to a petition submitted under § 111.75(a)(1)(ii) as a record under §111.95. The collection of information in § 111.95 has been approved under OMB control number 0910-0606.

Description of Respondents: The respondents to this collection of information are firms in the dietary supplement industry, including dietary supplement manufacturers, packagers and re-packagers, holders, labelers and re-labelers, distributors, warehouses, exporters, importers, large businesses, and small businesses.

In the Federal Register of November 14, 2013 (78 FR 68453), FDA published a 60-day notice requesting public comment on the proposed collection of information. While three comments were received, none were responsive to the four collection of information topics solicited in the notice and therefore are not discussed in this document. Additionally, although FDA was unable to publish a 30 day notice before the information collection expiration and is therefore requesting its reinstatement, the Agency has not conducted or sponsored any collection of information under OMB control number 0910-0608 in the interim period.

We estimate the annual burden of this collection of information as follows:

Table 1.-Estimated Annual Reporting Burden¹

21 CFR Section; CGMP Requirements for Dietary Supplements	Number of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
111.75(a)(1)(ii)	1	1	1	8	8

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

In the last 3 years, we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients; therefore, the Agency estimates that one or fewer petitions will be submitted annually. Based on our experience with petition processes, we estimate it will take a requestor about 8 hours to prepare the factual and legal information necessary to support a petition for exemption and to prepare the petition. Although we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients in the last 3 years, we believe that OMB approval of these information collection provisions should be extended to provide for the potential future need of a firm in the dietary supplement industry to petition for an exemption from 100 percent identity testing of dietary ingredients.

Dated: November 21, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014-28087 Filed 11/26/2014 at 8:45 am; Publication Date: 11/28/2014]